

110TH CONGRESS
1ST SESSION

S. 1693

To enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States.

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2007

Mr. KENNEDY (for himself, Mr. ENZI, Mrs. CLINTON, Mr. HATCH, Mr. OBAMA, Mr. GREGG, Mr. ALEXANDER, Mr. BURR, Mr. ROBERTS, and Mr. ISAKSON) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wired for Health Care
5 Quality Act”.

1 **TITLE I—IMPROVING THE**
 2 **INTEROPERABILITY OF**
 3 **HEALTH INFORMATION TECH-**
 4 **NOLOGY**

5 **SEC. 101. IMPROVING HEALTH CARE QUALITY, SAFETY,**
 6 **AND EFFICIENCY..**

7 The Public Health Service Act (42 U.S.C. 201 et
 8 seq.) is amended by adding at the end the following:

9 **“TITLE XXX—HEALTH INFOR-**
 10 **MATION TECHNOLOGY AND**
 11 **QUALITY**

12 **“SEC. 3001. DEFINITIONS; REFERENCE.**

13 “(a) IN GENERAL.—In this title:

14 “(1) COMMUNITY.—The term ‘Community’
 15 means the American Health Information Community
 16 established under section 3004.

17 “(2) HEALTH CARE PROVIDER.—The term
 18 ‘health care provider’ means a hospital, skilled nurs-
 19 ing facility, home health entity, health care clinic,
 20 federally qualified health center, group practice (as
 21 defined in section 1877(h)(4) of the Social Security
 22 Act), a pharmacist, a pharmacy, a laboratory, a phy-
 23 sician (as defined in section 1861(r) of the Social
 24 Security Act), a practitioner (as defined in section
 25 1842(b)(18)(CC) of the Social Security Act), a

1 health facility operated by or pursuant to a contract
2 with the Indian Health Service, a rural health clinic,
3 and any other category of facility or clinician deter-
4 mined appropriate by the Secretary.

5 “(3) HEALTH INFORMATION.—The term ‘health
6 information’ has the meaning given such term in
7 section 1171(4) of the Social Security Act.

8 “(4) HEALTH PLAN.—The term ‘health plan’
9 has the meaning given such term in section 1171(5)
10 of the Social Security Act.

11 “(5) INDIVIDUALLY IDENTIFIABLE HEALTH IN-
12 FORMATION.—The term ‘individually identifiable
13 health information’ has the meaning given such term
14 in section 1171 of the Social Security Act.

15 “(6) LABORATORY.—The term ‘laboratory’ has
16 the meaning given such term in section 353.

17 “(7) NATIONAL COORDINATOR.—The term ‘Na-
18 tional Coordinator’ means the National Coordinator
19 of Health Information Technology appointed pursu-
20 ant to section 3002.

21 “(8) PARTNERSHIP.—The term ‘Partnership’
22 means the Partnership for Health Care Improve-
23 ment established under section 3003.

24 “(9) QUALIFIED HEALTH INFORMATION TECH-
25 NOLOGY.—The term ‘qualified health information

1 technology’ means a computerized system (including
2 hardware and software) that—

3 “(A) protects the privacy and security of
4 health information;

5 “(B) maintains and provides permitted ac-
6 cess to health information in an electronic for-
7 mat;

8 “(C) with respect to individually identifi-
9 able health information maintained in a des-
10 ignated record set, preserves an audit trail of
11 each individual that has gained access to such
12 record set;

13 “(D) incorporates decision support to re-
14 duce medical errors and enhance health care
15 quality;

16 “(E) complies with the standards adopted
17 by the Federal Government under section 3003;

18 “(F) has the ability to transmit and ex-
19 change information to other health information
20 technology systems and, to the extent feasible,
21 public health information technology systems;
22 and

23 “(G) allows for the reporting of quality
24 measures adopted under section 3010.

1 “(10) STATE.—The term ‘State’ means each of
 2 the several States, the District of Columbia, Puerto
 3 Rico, the Virgin Islands, Guam, American Samoa,
 4 and the Northern Mariana Islands.

5 “(b) REFERENCES TO SOCIAL SECURITY ACT.—Any
 6 reference in this section to the Social Security Act shall
 7 be deemed to be a reference to such Act as in effect on
 8 the date of enactment of this title.

9 **“SEC. 3002. OFFICE OF THE NATIONAL COORDINATOR FOR**
 10 **HEALTH INFORMATION TECHNOLOGY.**

11 “(a) ESTABLISHMENT.—There is established within
 12 the office of the Secretary, the Office of the National Co-
 13 ordinator of Health Information Technology. The Na-
 14 tional Coordinator shall be appointed by the Secretary in
 15 consultation with the President, and shall report directly
 16 to the Secretary.

17 “(b) PURPOSE.—The Office of the National Coordi-
 18 nator shall be responsible for—

19 “(1) ensuring that key health information tech-
 20 nology initiatives are coordinated across programs of
 21 the Department of Health and Human Services;

22 “(2) ensuring that health information tech-
 23 nology policies and programs of the Department of
 24 Health and Human Services are coordinated with
 25 such policies and programs of other relevant Federal

1 agencies (including Federal commissions and advi-
2 sory committees) with a goal of avoiding duplication
3 of efforts and of helping to ensure that each agency
4 undertakes activities primarily within the areas of its
5 greatest expertise and technical capability;

6 “(3) reviewing Federal health information tech-
7 nology investments to ensure that Federal health in-
8 formation technology programs are meeting the ob-
9 jectives of the strategic plan published by the Office
10 of the National Coordinator of Health Information
11 Technology to establish a nationwide interoperable
12 health information technology infrastructure;

13 “(4) providing comments and advice regarding
14 specific Federal health information technology pro-
15 grams, at the request of Office of Management and
16 Budget; and

17 “(5) enhancing the use of health information
18 technology to improve the quality of health care in
19 the prevention and management of chronic disease
20 and to address population health.

21 “(c) ROLE WITH COMMUNITY AND THE PARTNER-
22 SHIP.—The Office of the National Coordinator shall—

23 “(1) serve as an ex officio member of the Com-
24 munity, and act as a liaison between the Federal
25 Government and the Community;

1 “(2) serve as an ex officio member of the Part-
2 nership and act as a liaison between the Federal
3 Government and the Partnership; and

4 “(3) serve as a liaison between the Partnership
5 and the Community.

6 “(d) REPORTS AND WEBSITE.—The Office of the
7 National Coordinator shall—

8 “(1) develop and publish a strategic plan for
9 implementing a nationwide interoperable health in-
10 formation technology infrastructure;

11 “(2) maintain and frequently update an Inter-
12 net website that—

13 “(A) publishes the schedule for the assess-
14 ment of standards for significant use cases;

15 “(B) publishes the recommendations of the
16 Community;

17 “(C) publishes the recommendations of the
18 Partnership;

19 “(D) publishes quality measures;

20 “(E) identifies sources of funds that will
21 be made available to facilitate the purchase of,
22 or enhance the utilization of, health information
23 technology systems, either through grants or
24 technical assistance; and

1 “(F) publishes a plan for a transition of
2 any functions of the Office of the National Co-
3 ordinator that should be continued after Sep-
4 tember 30, 2014;

5 “(3) prepare a report on the lessons learned
6 from major public and private health care systems
7 that have implemented health information tech-
8 nology systems, including an explanation of whether
9 the systems and practices developed by such systems
10 may be applicable to and usable in whole or in part
11 by other health care providers; and

12 “(4) assess the impact of health information
13 technology in communities with health disparities
14 and identify practices to increase the adoption of
15 such technology by health care providers in such
16 communities.

17 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
18 tion shall be construed as requiring the duplication of Fed-
19 eral efforts with respect to the establishment of the Office
20 of the National Coordinator for Health Information Tech-
21 nology, regardless of whether such efforts are carried out
22 before or after the date of the enactment of this title.

23 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
24 is authorized to be appropriated to carry out this section,
25 \$5,000,000 for each of fiscal years 2008 and 2009.

1 “(g) SUNSET.—The provisions of this section shall
2 not apply after September 30, 2014.

3 **“SEC. 3003. PARTNERSHIP FOR HEALTH CARE IMPROVE-**
4 **MENT-STANDARDS AND TECHNOLOGY.**

5 “(a) ESTABLISHMENT.—

6 “(1) IN GENERAL.—There is established a pub-
7 lic-private Partnership for Health Care Improvement
8 to—

9 “(A) provide advice to the Secretary and
10 the Nation and recommend specific actions to
11 achieve a nationwide interoperable health infor-
12 mation technology infrastructure;

13 “(B) make recommendations concerning
14 standards, implementation specifications, and
15 certification criteria for the electronic exchange
16 of health information (including for the report-
17 ing of quality data under section 3010) for
18 adoption by the Federal Government and vol-
19 untary adoption by private entities;

20 “(C) serve as a forum for the participation
21 of a broad range of stakeholders with specific
22 technical expertise in the development of stand-
23 ards, implementation specifications, and certifi-
24 cation criteria to provide input on the effective

1 implementation of health information tech-
2 nology systems; and

3 “(D) develop and maintain an Internet
4 website that—

5 “(i) publishes established governance
6 rules (including a subsequent appointment
7 process);

8 “(ii) publishes a business plan;

9 “(iii) publishes meeting notices at
10 least 14 days prior to each meeting;

11 “(iv) publishes meeting agendas at
12 least 7 days prior to each meeting; and

13 “(v) publishes meeting materials at
14 least 3 days prior to each meeting.

15 “(2) LIMITATION.—The Partnership shall not
16 meet or take any action until an advisory committee
17 charter has been filed with the Secretary and with
18 the appropriate committees of the Senate and House
19 of Representatives for the Community described in
20 section 3004.

21 “(b) MEMBERSHIP.—

22 “(1) APPOINTMENTS.—

23 “(A) IN GENERAL.—The Partnership shall
24 be composed of members to be appointed as fol-
25 lows:

1 “(i) 2 members shall be appointed by
2 the Secretary.

3 “(ii) 1 member shall be appointed by
4 the majority leader of the Senate.

5 “(iii) 1 member shall be appointed by
6 the minority leader of the Senate.

7 “(iv) 1 member shall be appointed by
8 the Speaker of the House of Representa-
9 tives.

10 “(v) 1 member shall be appointed by
11 the minority leader of the House of Rep-
12 resentatives.

13 “(vi) Seven members shall be ap-
14 pointed by the Comptroller General of
15 whom—

16 “(I) one member shall be a rep-
17 resentative of consumer or patient or-
18 ganizations;

19 “(II) one member shall be a rep-
20 resentative of organizations with ex-
21 pertise in privacy;

22 “(III) one member shall be a rep-
23 resentative of organizations with ex-
24 pertise in security;

1 “(IV) one member shall be a rep-
2 resentative of health care providers;

3 “(V) one member shall be a rep-
4 resentative of health plans or other
5 third party payers;

6 “(VI) one member shall be a rep-
7 resentative of information technology
8 vendors; and

9 “(VII) one member shall be a
10 representative of purchasers or em-
11 ployers.

12 “(B) NATIONAL COORDINATOR.—The Na-
13 tional Coordinator shall be a member of the
14 Partnership and act as a liaison among the
15 Partnership, the community, and the Federal
16 Government.

17 “(2) CHAIRPERSON AND VICE CHAIRPERSON.—
18 The Partnership shall designate one member to
19 serve as the chairperson and one member to serve as
20 the vice chairperson of the Partnership.

21 “(3) PARTICIPATION.—In appointing members
22 under paragraph (1)(A), and in developing the pro-
23 cedures for conducting the activities of the Partner-
24 ship, the Partnership shall ensure a balance among
25 various sectors of the health care system so that no

1 single sector unduly influences the recommendations
2 of the Partnership.

3 “(4) TERMS.—Members appointed under para-
4 graph (1)(A) shall serve for 3 year terms, except
5 that any member appointed to fill a vacancy for an
6 unexpired term shall be appointed for the remainder
7 of such term. A member may serve for not to exceed
8 180 days after the expiration of such member’s term
9 or until a successor has been appointed.

10 “(5) OUTSIDE INVOLVEMENT.—The Partner-
11 ship shall ensure an adequate opportunity for the
12 participation of outside advisors, including individ-
13 uals with expertise in—

14 “(A) health information privacy;

15 “(B) health information security;

16 “(C) health care quality and patient safety,
17 including individuals with expertise in utilizing
18 health information technology to improve health
19 care quality and patient safety;

20 “(D) medical and clinical research data ex-
21 change; and

22 “(E) developing health information tech-
23 nology standards and new health information
24 technology.

1 “(6) QUORUM.—Two-thirds of the members of
2 the Partnership shall constitute a quorum for the
3 purpose of conducting votes.

4 “(c) STANDARDS AND IMPLEMENTATION SPECIFICA-
5 TIONS.—

6 “(1) SCHEDULE.—Not later than 90 days after
7 the date of enactment of this title, the Partnership
8 shall develop a schedule for the assessment of stand-
9 ards and implementation specifications under this
10 section. The Partnership shall update such schedule
11 annually. The Secretary shall publish such schedule
12 in the Federal Register and on the Internet website
13 of the Department of Health and Human Services.

14 “(2) FIRST YEAR RECOMMENDATIONS.—Con-
15 sistent with the schedule published under paragraph
16 (1) and not later than 1 year after date of enact-
17 ment of this title, the Partnership shall recommend,
18 and the Secretary shall review, such standards and
19 implementation specifications.

20 “(3) ONGOING RECOMMENDATIONS.—The Part-
21 nership shall review and modify, as appropriate but
22 at least annually, adopted standards and implemen-
23 tation specifications and continue to recommend ad-
24 ditional standards and implementation specifications,
25 consistent with the schedule published pursuant to

1 paragraph (1). The Secretary shall review such
2 modifications and recommendations.

3 “(4) RECOGNITION OF PRIVATE ENTITIES.—
4 The Partnership, in consultation with the Secretary,
5 may recognize a private entity or entities for the
6 purpose of developing and updating standards and
7 implementation specifications to achieve uniform and
8 consistent implementation of the standards adopted
9 by the President under this title. Such entity or enti-
10 ties shall make recommendations to the Partnership
11 consistent with this section.

12 “(5) PUBLICATION.—All recommendations
13 made by the Partnership pursuant to this section
14 shall be published in the Federal Register and on
15 the Internet website of the Office of the National
16 Coordinator.

17 “(6) PILOT TESTING.—The Secretary may con-
18 duct, or recognize a private entity or entities to con-
19 duct, a pilot project to test the standards and imple-
20 mentation specifications developed under this section
21 in order to provide for the efficient implementation
22 of the standards and implementation specifications
23 described in this subsection prior to issuing such
24 recommendations.

1 “(7) PUBLIC INPUT.—The Partnership shall
2 conduct open public meetings and develop a process
3 to allow for public comment on the schedule and rec-
4 ommendations described in this section. Such proc-
5 ess shall ensure that such comments will be sub-
6 mitted within 30 days of the publication of a rec-
7 ommendation under this section.

8 “(8) FEDERAL ACTION.—Not later than 90
9 days after the issuance of a recommendation from
10 the Partnership under this subsection, the Secretary,
11 the Secretary of Veterans Affairs, and the Secretary
12 of Defense, in collaboration with representatives of
13 other relevant Federal agencies as determined ap-
14 propriate by the President, shall jointly review such
15 recommendation. If appropriate, the President shall
16 provide for the adoption by the Federal Government
17 of any standard or implementation specification con-
18 tained in such recommendation. Such determination
19 shall be published in the Federal Register and on
20 the Internet website of the Office of the National
21 Coordinator within 30 days after such determination
22 is made.

23 “(9) CONSISTENCY.—The standards and imple-
24 mentation specifications described in this subsection
25 shall be consistent with the standards for informa-

1 tion transactions and data elements developed pur-
2 suant to the regulations promulgated under section
3 264(c) of the Health Insurance Portability and Ac-
4 countability Act of 1996.

5 “(d) CERTIFICATION.—

6 “(1) DEVELOPING CRITERIA.—The Partner-
7 ship, in consultation with the Secretary, may recog-
8 nize a private entity or entities for the purpose of
9 developing and recommending to the Partnership
10 criteria to certify that appropriate categories of
11 health information technology products that claim to
12 be in compliance with applicable standards and im-
13 plementation specifications adopted under this title
14 have established such compliance.

15 “(2) ADOPTION OF CRITERIA.—The Secretary,
16 based upon the recommendations of the Partnership,
17 shall review, and if appropriate, adopt such criteria.

18 “(3) CONDUCTING CERTIFICATION.—The Sec-
19 retary may recognize a private entity or entities to
20 conduct the certifications described under paragraph
21 (1) using the criteria adopted by the Secretary
22 under this subsection.

23 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
24 tion shall be construed as disrupting existing activities de-
25 scribed in subsection (c) or (d).

1 “(f) REQUIREMENT TO CONSIDER RECOMMENDA-
 2 TIONS.—In carrying out the activities described in sub-
 3 sections (c) and (d), the Partnership shall adopt and inte-
 4 grate the recommendations of the Community that are
 5 adopted by the Secretary.

6 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
 7 are authorized to be appropriated to carry out this section,
 8 \$2,000,000 for each of the fiscal years 2008 and 2009.

9 **“SEC. 3004. AMERICAN HEALTH INFORMATION COMMU-
 10 NITY—POLICIES.**

11 “(a) ESTABLISHMENT.—There is established a com-
 12 mittee to be known as the American Health Information
 13 Community. The Community shall—

14 “(1) provide advice to the Secretary and the
 15 heads of any relevant Federal agencies concerning
 16 the policy considerations related to health informa-
 17 tion technology;

18 “(2) not later than 1 year after the date of en-
 19 actment of this title, and annually thereafter, make
 20 recommendations concerning a policy framework for
 21 the development and adoption of a nationwide inter-
 22 operable health information technology infrastruc-
 23 ture;

24 “(3) not later than 1 year after the date of en-
 25 actment of this title, and annually thereafter, make

1 recommendation concerning national policies for
 2 adoption by the Federal Government, and voluntary
 3 adoption by private entities, to support the wide-
 4 spread adoption of health information technology,
 5 including—

6 “(A) the protection of individually identifi-
 7 able health information;

8 “(B) methods to notify individuals if their
 9 individually identifiable health information is
 10 wrongfully disclosed;

11 “(C) methods to facilitate secure access to
 12 such individual’s individually identifiable health
 13 information;

14 “(D) the appropriate uses of a nationwide
 15 health information network including—

16 “(i) the collection of quality data and
 17 public reporting;

18 “(ii) biosurveillance and public health;

19 “(iii) medical and clinical research;

20 and

21 “(iv) drug safety;

22 “(E) fostering the public understanding of
 23 health information technology;

1 “(F) strategies to enhance the use of
2 health information technology in preventing and
3 managing chronic disease;

4 “(G) policies to incorporate the input of
5 employees of health care providers in the design
6 and implementation of health information tech-
7 nology systems; and

8 “(H) other policies determined to be nec-
9 essary by the Community; and

10 “(4) serve as a forum for the participation of
11 a broad range of stakeholders to provide input on
12 improving the effective implementation of health in-
13 formation technology systems.

14 “(b) PUBLICATION.—All recommendations made by
15 the Community pursuant to this section shall be published
16 in the Federal Register and on the Internet website of the
17 National Coordinator. The Secretary shall review all rec-
18 ommendations and determine which recommendations
19 shall be endorsed by the Federal Government and such
20 determination shall be published on the Internet website
21 of the Office of the National Coordinator within 30 days
22 after the date on which such endorsement is made.

23 “(c) MEMBERSHIP.—

24 “(1) IN GENERAL.—The Community shall be
25 composed of members to be appointed as follows:

1 “(A) 3 members shall be appointed by the
2 Secretary, 1 of whom shall be a representative
3 from the Department of Health and Human
4 Services.

5 “(B) 1 member shall be appointed by the
6 Secretary of Veterans Affairs who shall rep-
7 resent the Department of Veterans Affairs.

8 “(C) 1 member shall be appointed by the
9 Secretary of Defense who shall represent the
10 Department of Defense.

11 “(D) 1 member shall be appointed by the
12 majority leader of the Senate.

13 “(E) 1 member shall be appointed by the
14 minority leader of the Senate.

15 “(F) 1 member shall be appointed by the
16 Speaker of the House of Representatives.

17 “(G) 1 member shall be appointed by the
18 minority leader of the House of Representa-
19 tives.

20 “(H) Nine members shall be appointed by
21 the Comptroller General of whom—

22 “(i) one member shall be advocates
23 for patients or consumers;

24 “(ii) one member shall represent
25 health care providers;

1 “(iii) one member shall be from a
2 labor organization representing health care
3 workers;

4 “(iv) one member shall have expertise
5 in privacy and security;

6 “(v) one member shall have expertise
7 in improving the health of vulnerable popu-
8 lations;

9 “(vi) one member shall represent
10 health plans or other third party payers;

11 “(vii) one member shall represent in-
12 formation technology vendors;

13 “(viii) one member shall represent
14 purchasers or employers; and

15 “(ix) one member shall have expertise
16 in health care quality measurement and re-
17 porting.

18 “(2) CHAIRPERSON AND VICE CHAIRPERSON.—
19 The Community shall designate one member to serve
20 as the chairperson and one member to serve as the
21 vice chairperson of the Community.

22 “(3) NATIONAL COORDINATOR.—The National
23 Coordinator shall be a member of the Community
24 and act as a liaison among the Community, the
25 partnership, and the Federal Government.

1 “(4) PARTICIPATION.—The members of the
2 Community appointed under paragraph (1) shall
3 represent a balance among various sectors of the
4 health care system so that no single sector unduly
5 influences the recommendations of the Community.

6 “(5) TERMS.—

7 “(A) IN GENERAL.—The terms of mem-
8 bers of the Community shall be for 3 years ex-
9 cept that the Comptroller General shall des-
10 ignate staggered terms for the members first
11 appointed.

12 “(B) VACANCIES.—Any member appointed
13 to fill a vacancy in the membership of the Com-
14 munity that occurs prior to the expiration of
15 the term for which the member’s predecessor
16 was appointed shall be appointed only for the
17 remainder of that term. A member may serve
18 after the expiration of that member’s term until
19 a successor has been appointed. A vacancy in
20 the Community shall be filled in the manner in
21 which the original appointment was made.

22 “(6) OUTSIDE INVOLVEMENT.—The Commu-
23 nity shall ensure an adequate opportunity for the
24 participation of outside advisors, including individ-
25 uals with expertise in—

1 “(A) health information privacy and secu-
2 rity;

3 “(B) improving the health of vulnerable
4 populations;

5 “(C) health care quality and patient safety,
6 including individuals with expertise in measure-
7 ment and the use of health information tech-
8 nology to capture data to improve health care
9 quality and patient safety;

10 “(D) ethics;

11 “(E) medical and clinical research data ex-
12 change; and

13 “(F) developing health information tech-
14 nology standards and new health information
15 technology.

16 “(7) QUORUM.—Ten members of the Commu-
17 nity shall constitute a quorum for purposes of vot-
18 ing, but a lesser number of members may meet and
19 hold hearings.

20 “(d) FEDERAL AGENCIES.—

21 “(1) STAFF OF OTHER FEDERAL AGENCIES.—
22 Upon the request of the Community, the head of any
23 Federal agency may detail, without reimbursement,
24 any of the personnel of such agency to the Commu-
25 nity to assist in carrying out the duties of the Com-

1 munity. Any such detail shall not interrupt or other-
2 wise affect the civil service status or privileges of the
3 Federal employee involved.

4 “(2) TECHNICAL ASSISTANCE.—Upon the re-
5 quest of the Community, the head of a Federal
6 agency shall provide such technical assistance to the
7 Community as the Community determines to be nec-
8 essary to carry out its duties.

9 “(3) OTHER RESOURCES.—The Community
10 shall have reasonable access to materials, resources,
11 statistical data, and other information from the Li-
12 brary of Congress and agencies and elected rep-
13 resentatives of the executive and legislative branches
14 of the Federal Government. The chairperson or vice
15 chairperson of the Community shall make requests
16 for such access in writing when necessary.

17 “(e) APPLICATION OF FACA.—The Federal Advisory
18 Committee Act (5 U.S.C. App.) shall apply to the Commu-
19 nity, except that the term provided for under section
20 14(a)(2) of such Act shall be not longer than 7 years.

21 “(f) SUNSET.—The provisions of this section shall
22 not apply after September 20, 2014.

23 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
24 is authorized to be appropriated to carry out this section,
25 \$2,000,000 for each of fiscal years 2008 and 2009.

1 **“SEC. 3005. FEDERAL PURCHASING AND DATA COLLEC-**
2 **TION.**

3 “(a) COORDINATION OF FEDERAL SPENDING.—

4 “(1) IN GENERAL.—Not later than 1 year after
5 the adoption by the President of a recommendation
6 under section 3003(c)(6), a Federal agency shall not
7 expend Federal funds for the purchase of any new
8 health information technology or health information
9 technology system for clinical care or for the elec-
10 tronic retrieval, storage, or exchange of health infor-
11 mation if such technology or system is not consistent
12 with applicable standards adopted by the Federal
13 Government under section 3003.

14 “(2) RULE OF CONSTRUCTION.—Nothing in
15 paragraph (1) shall be construed to restrict the pur-
16 chase of minor (as determined by the Secretary)
17 hardware or software components in order to mod-
18 ify, correct a deficiency in, or extend the life of exist-
19 ing hardware or software.

20 “(b) VOLUNTARY ADOPTION.—

21 “(1) IN GENERAL.—Any standards and imple-
22 mentation specifications adopted by the Federal
23 Government under section 303(c)(6) shall be vol-
24 untary with respect to private entities.

25 “(2) REQUIREMENT.—Private entities that
26 enter into a contract with the Federal Government

1 shall adopt the standards and implementation speci-
 2 fications adopted by the Federal Government under
 3 this section for the purpose of activities under such
 4 Federal contract.

5 “(3) RULE OF CONSTRUCTION.—Nothing in
 6 this section shall be construed to require that a pri-
 7 vate entity that enters into a contract with the Fed-
 8 eral Government adopt the standards and implemen-
 9 tation specifications adopted by the Federal Govern-
 10 ment under this section with respect to activities not
 11 related to the contract.

12 “(c) COORDINATION OF FEDERAL DATA COLLEC-
 13 TION.—Not later than 3 years after the adoption by the
 14 Federal Government of a recommendation as provided for
 15 in section 303(c)(6), all Federal agencies collecting health
 16 data in an electronic format for the purposes of quality
 17 reporting, surveillance, epidemiology, adverse event report-
 18 ing, research, or for other purposes determined appro-
 19 priate by the Secretary, shall comply with the standards
 20 and implementation specifications adopted under such
 21 subsection.

22 **“SEC. 3006. QUALITY AND EFFICIENCY REPORTS.**

23 “(a) PURPOSE.—The purpose of this section is to
 24 provide for the development of reports based on Federal
 25 health care data and private data that is publicly available

1 or is provided by the entity making the request for the
 2 report in order to—

3 “(1) improve the quality and efficiency of
 4 health care and advance health care research;

5 “(2) enhance the education and awareness of
 6 consumers for evaluating health care services; and

7 “(3) provide the public with reports on national,
 8 regional, and provider- and supplier-specific per-
 9 formance, which may be in a provider- or supplier-
 10 identifiable format.

11 “(b) PROCEDURES FOR THE DEVELOPMENT OF RE-
 12 PORTS.—

13 “(1) IN GENERAL.—Notwithstanding section
 14 552(b)(6) or 552a(b) of title 5, United States Code,
 15 not later than 12 months after the date of enact-
 16 ment of this section, the Secretary, in accordance
 17 with the purpose described in subsection (a), shall
 18 establish and implement procedures under which an
 19 entity may submit a request to a Quality Reporting
 20 Organization for the Organization to develop a re-
 21 port based on—

22 “(A) Federal health care data disclosed to
 23 the Organization under subsection (c); and

1 “(B) private data that is publicly available
 2 or is provided to the Organization by the entity
 3 making the request for the report.

4 “(2) DEFINITIONS.—In this section:

5 “(A) FEDERAL HEALTH CARE DATA.—The
 6 term ‘Federal health care data’ means —

7 “(i) deidentified patient enrollment
 8 data, reimbursement claims, and survey
 9 data maintained by the Secretary or enti-
 10 ties under programs, contracts, grants, or
 11 memoranda of understanding administered
 12 by the Secretary; and

13 “(ii) where feasible, other deidentified
 14 patient enrollment data, reimbursement
 15 claims, and survey data maintained by the
 16 Federal Government or entities under con-
 17 tract with the Federal Government.

18 “(B) QUALITY REPORTING ORGANIZA-
 19 TION.—The term ‘Quality Reporting Organiza-
 20 tion’ means an entity with a contract under
 21 subsection (d).

22 “(c) ACCESS TO FEDERAL HEALTH CARE DATA.—

23 “(1) IN GENERAL.—The procedures established
 24 under subsection (b)(1) shall provide for the secure

1 disclosure of Federal health care data to each Qual-
 2 ity Reporting Organization.

3 “(2) UPDATE OF INFORMATION.—Not less than
 4 every 6 months, the Secretary shall update the infor-
 5 mation disclosed under paragraph (1) to Quality Re-
 6 porting Organizations.

7 “(d) QUALITY REPORTING ORGANIZATIONS.—

8 “(1) IN GENERAL.—

9 “(A) THREE CONTRACTS.—Subject to sub-
 10 paragraph (B), the Secretary shall enter into a
 11 contract with 3 private entities to serve as
 12 Quality Reporting Organizations under which
 13 an entity shall—

14 “(i) store the Federal health care data
 15 that is to be disclosed under subsection (c);
 16 and

17 “(ii) develop and release reports pur-
 18 suant to subsection (e).

19 “(B) ADDITIONAL CONTRACTS.—If the
 20 Secretary determines that reports are not being
 21 developed and released within 6 months of the
 22 receipt of the request for the report, the Sec-
 23 retary shall enter into contracts with additional
 24 private entities in order to ensure that such re-

1 ports are developed and released in a timely
2 manner.

3 “(2) QUALIFICATIONS.—The Secretary shall
4 enter into a contract with an entity under paragraph
5 (1) only if the Secretary determines that the enti-
6 ty—

7 “(A) has the research capability to conduct
8 and complete reports under this section;

9 “(B) has in place—

10 “(i) an information technology infra-
11 structure to support the database of Fed-
12 eral health care data that is to be disclosed
13 to the entity; and

14 “(ii) operational standards to provide
15 security for such database;

16 “(C) has experience with, and expertise on,
17 the development of reports on health care qual-
18 ity and efficiency; and

19 “(D) has a significant business presence in
20 the United States.

21 “(3) CONTRACT REQUIREMENTS.—Each con-
22 tract with an entity under paragraph (1) shall con-
23 tain the following requirements:

24 “(A) ENSURING BENEFICIARY PRIVACY.—

1 “(i) HIPAA.—The entity shall meet
2 the requirements imposed on a covered en-
3 tity for purposes of applying part C of title
4 XI and all regulatory provisions promul-
5 gated thereunder, including regulations
6 (relating to privacy) adopted pursuant to
7 the authority of the Secretary under sec-
8 tion 264(c) of the Health Insurance Port-
9 ability and Accountability Act of 1996 (42
10 U.S.C. 1320d–2 note).

11 “(ii) PRIVACY.—The entity shall pro-
12 vide assurances that the entity will not use
13 the Federal health care data disclosed
14 under subsection (c) in a manner that vio-
15 lates sections 552 or 552a of title 5,
16 United States Code, with regard to the pri-
17 vacy of and individual’s individually identi-
18 fiable health information.

19 “(B) PROPRIETARY INFORMATION.—The
20 entity shall provide assurances that the entity
21 will not disclose any negotiated price conces-
22 sions, such as discounts, direct or indirect sub-
23 sidies, rebates, and direct or indirect remunera-
24 tions, obtained by health care providers or sup-

pliers or health care plans, or any other proprietary cost information.

“(C) DISCLOSURE.—The entity shall disclose—

“(i) any financial, reporting, or contractual relationship between the entity and any health care provider or supplier or health care plan; and

“(ii) if applicable, the fact that the entity is managed, controlled, or operated by any health care provider or supplier or health care plan.

“(D) COMPONENT OF ANOTHER ORGANIZATION.—If the entity is a component of another organization—

“(i) the entity shall maintain Federal health care data and reports separately from the rest of the organization and establish appropriate security measures to maintain the confidentiality and privacy of the Federal health care data and reports; and

“(ii) the entity shall not make an unauthorized disclosure to the rest of the organization of Federal health care data or

1 reports in breach of such confidentiality
2 and privacy requirement.

3 “(E) TERMINATION OR NONRENEWAL.—If
4 a contract under this section is terminated or
5 not renewed, the following requirements shall
6 apply:

7 “(i) CONFIDENTIALITY AND PRIVACY
8 PROTECTIONS.—The entity shall continue
9 to comply with the confidentiality and pri-
10 vacy requirements under this section with
11 respect to all Federal health care data dis-
12 closed to the entity and each report devel-
13 oped by the entity.

14 “(ii) DISPOSITION OF DATA AND RE-
15 PORTS.—The entity shall—

16 “(I) return to the Secretary all
17 Federal health care data disclosed to
18 the entity and each report developed
19 by the entity; or

20 “(II) if returning the Federal
21 health care data and reports is not
22 practicable, destroy the reports and
23 Federal health care data.

24 “(4) COMPETITIVE PROCEDURES.—Competitive
25 procedures (as defined in section 4(5) of the Federal

1 Procurement Policy Act) shall be used to enter into
 2 contracts under paragraph (1).

3 “(5) REVIEW OF CONTRACT IN THE EVENT OF
 4 A MERGER OR ACQUISITION.—The Secretary shall
 5 review the contract with a Quality Reporting Orga-
 6 nization under this section in the event of a merger
 7 or acquisition of the Organization in order to ensure
 8 that the requirements under this section will con-
 9 tinue to be met.

10 “(e) DEVELOPMENT AND RELEASE OF REPORTS
 11 BASED ON REQUESTS.—

12 “(1) REQUEST FOR A REPORT.—

13 “(A) REQUEST.—

14 “(i) IN GENERAL.—The procedures
 15 established under subsection (b)(1) shall
 16 include a process for an entity to submit a
 17 request to a Quality Reporting Organiza-
 18 tion for a report based on Federal health
 19 care data and private data that is publicly
 20 available or is provided by the entity mak-
 21 ing the request for the report. Such re-
 22 quest shall comply with the purpose de-
 23 scribed in subsection (a).

24 “(ii) REQUEST FOR SPECIFIC METH-
 25 ODOLOGY.—The process described in

1 clause (i) shall permit an entity making a
2 request for a report to request that a spe-
3 cific methodology, including appropriate
4 risk adjustment, be used by the Quality
5 Reporting Organization in developing the
6 report. The Organization shall work with
7 the entity making the request to finalize
8 the methodology to be used.

9 “(iii) REQUEST FOR A SPECIFIC
10 QRO.—The process described in clause (i)
11 shall permit an entity to submit the re-
12 quest for a report to any Quality Report-
13 ing Organization.

14 “(B) RELEASE TO PUBLIC.—The proce-
15 dures established under subsection (b)(1) shall
16 provide that at the time a request for a report
17 is finalized under subparagraph (A) by a Qual-
18 ity Reporting Organization, the Organization
19 shall make available to the public, through the
20 Internet website of the Department of Health
21 and Human Services and other appropriate
22 means, a brief description of both the requested
23 report and the methodology to be used to de-
24 velop such report.

1 “(2) DEVELOPMENT AND RELEASE OF RE-
2 PORT.—

3 “(A) DEVELOPMENT.—

4 “(i) IN GENERAL.—If the request for
5 a report complies with the purpose de-
6 scribed in subsection (a), the Quality Re-
7 porting Organization may develop the re-
8 port based on the request.

9 “(ii) REQUIREMENT.—A report devel-
10 oped under clause (i) shall include a de-
11 tailed description of the standards, meth-
12 odologies, and measures of quality used in
13 developing the report.

14 “(B) REVIEW OF REPORT BY SECRETARY
15 TO ENSURE COMPLIANCE WITH PRIVACY RE-
16 QUIREMENT.—Prior to a Quality Reporting Or-
17 ganization releasing a report under subpara-
18 graph (C), the Secretary shall review the report
19 to ensure that the report complies with the
20 Federal regulations (concerning the privacy of
21 individually identifiable beneficiary health infor-
22 mation) promulgated under section 264(c) of
23 the Health Insurance Portability and Account-
24 ability Act of 1996 and sections 552 or 552a of
25 title 5, United States Code, with regard to the

1 privacy of individually identifiable beneficiary
2 health information. The Secretary shall act
3 within 30 business days of receiving such re-
4 port.

5 “(C) RELEASE OF REPORT.—

6 “(i) RELEASE TO ENTITY MAKING RE-
7 QUEST.—If the Secretary finds that the re-
8 port complies with the provisions described
9 in subparagraph (B), the Quality Report-
10 ing Organization shall release the report to
11 the entity that made the request for the re-
12 port.

13 “(ii) RELEASE TO PUBLIC.—The pro-
14 cedures established under subsection (b)(1)
15 shall provide for the following:

16 “(I) UPDATED DESCRIPTION.—

17 At the time of the release of a report
18 by a Quality Reporting Organization
19 under clause (i), the entity shall make
20 available to the public, through the
21 Internet website of the Department of
22 Health and Human Services and
23 other appropriate means, an updated
24 brief description of both the requested

1 report and the methodology used to
 2 develop such report.

3 “(II) COMPLETE REPORT.—Not
 4 later than 1 year after the date of the
 5 release of a report under clause (i),
 6 the report shall be made available to
 7 the public through the Internet
 8 website of the Department of Health
 9 and Human Services and other appro-
 10 priate means.

11 “(f) ANNUAL REVIEW OF REPORTS AND TERMI-
 12 NATION OF CONTRACTS.—

13 “(1) ANNUAL REVIEW OF REPORTS.—The
 14 Comptroller General of the United States shall re-
 15 view reports released under subsection (e)(2)(C) to
 16 ensure that such reports comply with the purpose
 17 described in subsection (a) and annually submit a
 18 report to the Secretary on such review.

19 “(2) TERMINATION OF CONTRACTS.—The Sec-
 20 retary may terminate a contract with a Quality Re-
 21 porting Organization if the Secretary determines
 22 that there is a pattern of reports being released by
 23 the Organization that do not comply with the pur-
 24 pose described in subsection (a).

25 “(g) FEES.—

1 “(1) FEES FOR SECRETARY.—The Secretary
2 shall charge a Quality Reporting Organization a fee
3 for—

4 “(A) disclosing the data under subsection
5 (c); and

6 “(B) conducting the review under sub-
7 section (e)(2)(B).

8 The Secretary shall ensure that such fees are suffi-
9 cient to cover the costs of the activities described in
10 subparagraph (A) and (B).

11 “(2) FEES FOR QRO.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graphs (A) and (B), a Quality Reporting Orga-
14 nization may charge an entity making a request
15 for a report a reasonable fee for the develop-
16 ment and release of the report.

17 “(B) DISCOUNT FOR SMALL ENTITIES.—In
18 the case of an entity making a request for a re-
19 port (including a not-for-profit) that has annual
20 revenue that does not exceed \$10,000,000, the
21 Quality Reporting Organization shall reduce the
22 reasonable fee charged to such entity under
23 subparagraph (A) by an amount equal to 10
24 percent of such fee.

1 “(C) INCREASE FOR LARGE ENTITIES
 2 THAT DO NOT AGREE TO RELEASE REPORTS
 3 WITHIN 6 MONTHS.—In the case of an entity
 4 making a request for a report that is not de-
 5 scribed in subparagraph (B) and that does not
 6 agree to the report being released to the public
 7 under clause (ii)(II) of subsection (e)(2)(C)
 8 within 6 months of the date of the release of
 9 the report to the entity under clause (i) of such
 10 subsection, the Quality Reporting Organization
 11 shall increase the reasonable fee charged to
 12 such entity under subparagraph (A) by an
 13 amount equal to 10 percent of such fee.

14 “(D) RULE OF CONSTRUCTION.—Nothing
 15 in this paragraph shall be construed to effect
 16 the requirement that a report be released to the
 17 public under clause (ii)(II) of subsection
 18 (e)(2)(C)(ii)(II) by not later than 1 year after
 19 the date of the release of the report to the re-
 20 questing entity under clause (i) of such sub-
 21 section.

22 “(h) COORDINATION.—Not later than 1 year after
 23 the date of enactment of this title, the Secretary shall sub-
 24 mit a report (including recommendations) to the appro-

1 priate committees of Congress concerning the coordination
 2 of existing Federal health care quality initiatives.

3 “(i) REGULATIONS.—Not later than 6 months after
 4 the date of enactment of this section, the Secretary shall
 5 prescribe regulations to carry out this section.

6 **“SEC. 3007. RESEARCH ACCESS TO HEALTH CARE DATA**
 7 **AND REPORTING ON PERFORMANCE.**

8 “The Secretary shall permit researchers that meet
 9 criteria used to evaluate the appropriateness of the release
 10 data for research purpose (as established by the Sec-
 11 retary) to—

12 “(1) have access to all Federal health care data
 13 (as defined in section 3006(b)(2)(A)); and

14 “(2) report on the performance of health care
 15 providers and suppliers, including reporting in a
 16 provider- or supplier-identifiable format.”.

1 **TITLE II—FACILITATING THE**
 2 **WIDESPREAD ADOPTION OF**
 3 **INTEROPERABLE HEALTH IN-**
 4 **FORMATION TECHNOLOGY**

5 **SEC. 201. FACILITATING THE WIDESPREAD ADOPTION OF**
 6 **INTEROPERABLE HEALTH INFORMATION**
 7 **TECHNOLOGY.**

8 Title XXX of the Public Health Service Act, as added
 9 by section 101, is amended by adding at the end the fol-
 10 lowing:

11 **“SEC. 3008. FACILITATING THE WIDESPREAD ADOPTION OF**
 12 **INTEROPERABLE HEALTH INFORMATION**
 13 **TECHNOLOGY.**

14 **“(a) COMPETITIVE GRANTS FOR ADOPTION OF**
 15 **TECHNOLOGY.—**

16 **“(1) IN GENERAL.—**The Secretary may award
 17 competitive grants to eligible entities to facilitate the
 18 purchase and enhance the utilization of qualified
 19 health information technology systems to improve
 20 the quality and efficiency of health care.

21 **“(2) ELIGIBILITY.—**To be eligible to receive a
 22 grant under paragraph (1) an entity shall—

23 **“(A)** submit to the Secretary an applica-
 24 tion at such time, in such manner, and con-

1 taining such information as the Secretary may
2 require;

3 “(B) submit to the Secretary a strategic
4 plan for the implementation of data sharing
5 and interoperability measures;

6 “(C) adopt the standards adopted by the
7 Federal Government under section 3005;

8 “(D) implement the measures adopted
9 under section 3010 and report to the Secretary
10 on such measures;

11 “(E) agree to notify individuals if their in-
12 dividually identifiable health information is
13 wrongfully disclosed;

14 “(F) take into account the input of em-
15 ployees and staff who are directly involved in
16 patient care of such health care providers in the
17 design, implementation, and use of qualified
18 health information technology systems;

19 “(G) demonstrate significant financial
20 need;

21 “(H) provide matching funds in accord-
22 ance with paragraph (4); and

23 “(I) be a—

24 “(i) public or not for profit hospital;

1 “(ii) federally qualified health center
 2 (as defined in section 1861(aa)(4) of the
 3 Social Security Act);

4 “(iii) individual or group practice (or
 5 a consortium thereof); or

6 “(iv) another health care provider not
 7 described in clause (i) or (ii);
 8 that serves medically underserved communities.

9 “(3) USE OF FUNDS.—Amounts received under
 10 a grant under this subsection shall be used to—

11 “(A) facilitate the purchase of qualified
 12 health information technology systems;

13 “(B) train personnel in the use of such
 14 systems;

15 “(C) enhance the utilization of qualified
 16 health information technology systems (which
 17 may include activities to increase the awareness
 18 among consumers of health care privacy protec-
 19 tions); or

20 “(D) improve the prevention and manage-
 21 ment of chronic disease.

22 “(4) MATCHING REQUIREMENT.—To be eligible
 23 for a grant under this subsection an entity shall con-
 24 tribute non-Federal contributions to the costs of car-
 25 rying out the activities for which the grant is award-

1 ed in an amount equal to \$1 for each \$3 of Federal
2 funds provided under the grant.

3 “(5) PREFERENCE IN AWARDING GRANTS.—In
4 awarding grants under this subsection the Secretary
5 shall give preference to—

6 “(A) eligible entities that will improve the
7 degree to which such entity will link the quali-
8 fied health information system to local or re-
9 gional health information plan or plans; and

10 “(B) with respect to awards made for the
11 purpose of providing care in an outpatient med-
12 ical setting, entities that organize their prac-
13 tices as a patient-centered medical home.

14 “(b) COMPETITIVE GRANTS FOR THE DEVELOPMENT
15 OF STATE LOAN PROGRAMS TO FACILITATE THE WIDE-
16 SPREAD ADOPTION OF HEALTH INFORMATION TECH-
17 NOLOGY.—

18 “(1) IN GENERAL.—The Secretary may award
19 competitive grants to States for the establishment of
20 State programs for loans to health care providers to
21 facilitate the purchase and enhance the utilization of
22 qualified health information technology.

23 “(2) ESTABLISHMENT OF FUND.—To be eligi-
24 ble to receive a competitive grant under this sub-
25 section, a State shall establish a qualified health in-

1 formation technology loan fund (referred to in this
 2 subsection as a ‘State loan fund’) and comply with
 3 the other requirements contained in this subsection.
 4 Amounts received under a grant under this sub-
 5 section shall be deposited in the State loan fund es-
 6 tablished by the State. No funds authorized by other
 7 provisions of this title to be used for other purposes
 8 specified in this title shall be deposited in any such
 9 State loan fund.

10 “(3) ELIGIBILITY.—To be eligible to receive a
 11 grant under paragraph (1) a State shall—

12 “(A) submit to the Secretary an applica-
 13 tion at such time, in such manner, and con-
 14 taining such information as the Secretary may
 15 require;

16 “(B) submit to the Secretary a strategic
 17 plan in accordance with paragraph (4);

18 “(C) establish a qualified health informa-
 19 tion technology loan fund in accordance with
 20 paragraph (2);

21 “(D) require that health care providers re-
 22 ceiving loans under the grant—

23 “(i) link, to the extent practicable, the
 24 qualified health information system to a

1 local or regional health information net-
2 work;

3 “(ii) consult, as needed, with the
4 Health Information Technology Resource
5 Center established in section 914(d) to ac-
6 cess the knowledge and experience of exist-
7 ing initiatives regarding the successful im-
8 plementation and effective use of health in-
9 formation technology;

10 “(iii) agree to notify individuals if
11 their individually identifiable health infor-
12 mation is wrongfully disclosed; and

13 “(iv) take into account the input of
14 employees and staff who are directly in-
15 volved in patient care of such health care
16 providers in the design and implementation
17 and use of qualified health information
18 technology systems;

19 “(E) require that health care providers re-
20 ceiving loans under the grant adopt the stand-
21 ards adopted by the Federal Government under
22 section 3005;

23 “(F) require that health care providers re-
24 ceiving loans under the grant implement the

1 measures adopted under section 3010 and re-
2 port to the Secretary on such measures; and

3 “(G) provide matching funds in accordance
4 with paragraph (8).

5 “(4) STRATEGIC PLAN.—

6 “(A) IN GENERAL.—A State that receives
7 a grant under this subsection shall annually
8 prepare a strategic plan that identifies the in-
9 tended uses of amounts available to the State
10 loan fund of the State.

11 “(B) CONTENTS.—A strategic plan under
12 subparagraph (A) shall include—

13 “(i) a list of the projects to be as-
14 sisted through the State loan fund in the
15 first fiscal year that begins after the date
16 on which the plan is submitted;

17 “(ii) a description of the criteria and
18 methods established for the distribution of
19 funds from the State loan fund;

20 “(iii) a description of the financial
21 status of the State loan fund and the
22 short-term and long-term goals of the
23 State loan fund; and

24 “(iv) a description of the strategies
25 the State will use to address challenges in

1 the adoption of health information tech-
2 nology due to limited broadband access.

3 “(5) USE OF FUNDS.—

4 “(A) IN GENERAL.—Amounts deposited in
5 a State loan fund, including loan repayments
6 and interest earned on such amounts, shall be
7 used only for awarding loans or loan guaran-
8 tees, or as a source of reserve and security for
9 leveraged loans, the proceeds of which are de-
10 posited in the State loan fund established under
11 paragraph (1). Loans under this section may be
12 used by a health care provider to—

13 “(i) facilitate the purchase of qualified
14 health information technology systems;

15 “(ii) enhance the utilization of quali-
16 fied health information technology systems
17 (which may include activities to increase
18 the awareness among consumers of health
19 care of privacy protections and privacy
20 rights); or

21 “(iii) train personnel in the use of
22 such systems.

23 “(B) LIMITATION.—Amounts received by a
24 State under this subsection may not be used—

1 “(i) for the purchase or other acqui-
2 sition of any health information technology
3 system that is not a qualified health infor-
4 mation technology system;

5 “(ii) to conduct activities for which
6 Federal funds are expended under this
7 title, or the amendments made by the
8 Wired for Health Care Quality Act; or

9 “(iii) for any purpose other than mak-
10 ing loans to eligible entities under this sec-
11 tion.

12 “(6) TYPES OF ASSISTANCE.—Except as other-
13 wise limited by applicable State law, amounts depos-
14 ited into a State loan fund under this subsection
15 may only be used for the following:

16 “(A) To award loans that comply with the
17 following:

18 “(i) The interest rate for each loan
19 shall be less than or equal to the market
20 interest rate.

21 “(ii) The principal and interest pay-
22 ments on each loan shall commence not
23 later than 1 year after the date on which
24 the loan was awarded, and each loan shall

1 be fully amortized not later than 10 years
2 after such date.

3 “(iii) The State loan fund shall be
4 credited with all payments of principal and
5 interest on each loan awarded from the
6 fund.

7 “(B) To guarantee, or purchase insurance
8 for, a local obligation (all of the proceeds of
9 which finance a project eligible for assistance
10 under this subsection) if the guarantee or pur-
11 chase would improve credit market access or re-
12 duce the interest rate applicable to the obliga-
13 tion involved.

14 “(C) As a source of revenue or security for
15 the payment of principal and interest on rev-
16 enue or general obligation bonds issued by the
17 State if the proceeds of the sale of the bonds
18 will be deposited into the State loan fund.

19 “(D) To earn interest on the amounts de-
20 posited into the State loan fund.

21 “(7) ADMINISTRATION OF STATE LOAN
22 FUNDS.—

23 “(A) COMBINED FINANCIAL ADMINISTRA-
24 TION.—A State may (as a convenience and to
25 avoid unnecessary administrative costs) com-

1 bine, in accordance with State law, the financial
2 administration of a State loan fund established
3 under this subsection with the financial admin-
4 istration of any other revolving fund established
5 by the State if not otherwise prohibited by the
6 law under which the State loan fund was estab-
7 lished.

8 “(B) COST OF ADMINISTERING FUND.—

9 Each State may annually use not to exceed 4
10 percent of the funds provided to the State
11 under a grant under this subsection to pay the
12 reasonable costs of the administration of the
13 programs under this section, including the re-
14 covery of reasonable costs expended to establish
15 a State loan fund which are incurred after the
16 date of enactment of this title.

17 “(C) GUIDANCE AND REGULATIONS.—The

18 Secretary shall publish guidance and promul-
19 gate regulations as may be necessary to carry
20 out the provisions of this subsection, includ-
21 ing—

22 “(i) provisions to ensure that each
23 State commits and expends funds allotted
24 to the State under this subsection as effi-

ciently as possible in accordance with this
title and applicable State laws; and

“(ii) guidance to prevent waste, fraud,
and abuse.

“(D) PRIVATE SECTOR CONTRIBUTIONS.—

“(i) IN GENERAL.—A State loan fund
established under this subsection may ac-
cept contributions from private sector enti-
ties, except that such entities may not
specify the recipient or recipients of any
loan issued under this subsection.

“(ii) AVAILABILITY OF INFORMA-
TION.—A State shall make publicly avail-
able the identity of, and amount contrib-
uted by, any private sector entity under
clause (i) and may issue letters of com-
mendation or make other awards (that
have no financial value) to any such entity.

“(8) MATCHING REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary may
not make a grant under paragraph (1) to a
State unless the State agrees to make available
(directly or through donations from public or
private entities) non-Federal contributions in
cash toward the costs of the State program to

1 be implemented under the grant in an amount
2 equal to not less than \$1 for each \$1 of Federal
3 funds provided under the grant.

4 “(B) DETERMINATION OF AMOUNT OF
5 NON-FEDERAL CONTRIBUTION.—In determining
6 the amount of non-Federal contributions that a
7 State has provided pursuant to subparagraph
8 (A), the Secretary may not include any
9 amounts provided to the State by the Federal
10 Government.

11 “(9) PREFERENCE IN AWARDING GRANTS.—
12 The Secretary may give a preference in awarding
13 grants under this subsection to States that adopt
14 value-based purchasing programs to improve health
15 care quality.

16 “(10) REPORTS.—The Secretary shall annually
17 submit to the Committee on Health, Education,
18 Labor, and Pensions and the Committee on Finance
19 of the Senate, and the Committee on Energy and
20 Commerce and the Committee on Ways and Means
21 of the House of Representatives, a report summa-
22 rizing the reports received by the Secretary from
23 each State that receives a grant under this sub-
24 section.

1 “(c) COMPETITIVE GRANTS FOR THE IMPLEMENTA-
2 TION OF REGIONAL OR LOCAL HEALTH INFORMATION
3 TECHNOLOGY PLANS.—

4 “(1) IN GENERAL.—The Secretary may award
5 competitive grants to eligible entities to implement
6 regional or local health information plans to improve
7 health care quality and efficiency through the elec-
8 tronic exchange of health information pursuant to
9 the standards, implementation specifications and
10 certification criteria, and other requirements adopted
11 by the Secretary under section 3010.

12 “(2) ELIGIBILITY.—To be eligible to receive a
13 grant under paragraph (1) an entity shall—

14 “(A) demonstrate financial need to the
15 Secretary;

16 “(B) demonstrate that one of its principal
17 missions or purposes is to use information tech-
18 nology to improve health care quality and effi-
19 ciency;

20 “(C) adopt bylaws, memoranda of under-
21 standing, or other charter documents that dem-
22 onstrate that the governance structure and de-
23 cisionmaking processes of such entity allow for
24 participation on an ongoing basis by multiple
25 stakeholders within a community, including—

1 “(i) health care providers (including
2 health care providers that provide services
3 to low income and underserved popu-
4 lations);

5 “(ii) pharmacists or pharmacies;

6 “(iii) health plans;

7 “(iv) health centers (as defined in sec-
8 tion 330(b)) and federally qualified health
9 centers (as defined in section 1861(aa)(4)
10 of the Social Security Act) and rural
11 health clinics (as defined in section
12 1861(aa) of the Social Security Act), if
13 such centers or clinics are present in the
14 community served by the entity;

15 “(v) patient or consumer organiza-
16 tions;

17 “(vi) organizations dedicated to im-
18 proving the health of vulnerable popu-
19 lations;

20 “(vii) employers;

21 “(viii) State or local health depart-
22 ments; and

23 “(ix) any other health care providers
24 or other entities, as determined appro-
25 priate by the Secretary;

1 “(D) demonstrate the participation, to the
2 extent practicable, of stakeholders in the elec-
3 tronic exchange of health information within
4 the local or regional plan pursuant to subpara-
5 graph (C);

6 “(E) adopt nondiscrimination and conflict
7 of interest policies that demonstrate a commit-
8 ment to open, fair, and nondiscriminatory par-
9 ticipation in the health information plan by all
10 stakeholders;

11 “(F) adopt the standards adopted by the
12 Secretary under section 3005;

13 “(G) require that health care providers re-
14 ceiving such grants—

15 “(i) implement the measures adopted
16 under section 3010 and report to the Sec-
17 retary on such measures; and

18 “(ii) take into account the input of
19 employees and staff who are directly in-
20 volved in patient care of such health care
21 providers in the design, implementation,
22 and use of health information technology
23 systems;

1 “(H) agree to notify individuals if their in-
 2 dividually identifiable health information is
 3 wrongfully disclosed;

4 “(I) facilitate the electronic exchange of
 5 health information within the local or regional
 6 area and among local and regional areas;

7 “(J) prepare and submit to the Secretary
 8 an application in accordance with paragraph
 9 (3);

10 “(K) agree to provide matching funds in
 11 accordance with paragraph (5); and

12 “(L) reduce barriers to the implementation
 13 of health information technology by providers.

14 “(3) APPLICATION.—

15 “(A) IN GENERAL.—To be eligible to re-
 16 ceive a grant under paragraph (1), an entity
 17 shall submit to the Secretary an application at
 18 such time, in such manner, and containing such
 19 information as the Secretary may require.

20 “(B) REQUIRED INFORMATION.—At a
 21 minimum, an application submitted under this
 22 paragraph shall include—

23 “(i) clearly identified short-term and
 24 long-term objectives of the regional or local
 25 health information plan;

1 “(ii) a technology plan that complies
2 with the standards, implementation speci-
3 fications, and certification criteria adopted
4 under section 3003(c)(6) and that includes
5 a descriptive and reasoned estimate of
6 costs of the hardware, software, training,
7 and consulting services necessary to imple-
8 ment the regional or local health informa-
9 tion plan;

10 “(iii) a strategy that includes initia-
11 tives to improve health care quality and ef-
12 ficiency, including the use and reporting of
13 health care quality measures adopted
14 under section 3010;

15 “(iv) a plan that describes provisions
16 to encourage the implementation of the
17 electronic exchange of health information
18 by all health care providers participating in
19 the health information plan;

20 “(v) a plan to ensure the privacy and
21 security of individually identifiable health
22 information that is consistent with Federal
23 and State law;

24 “(vi) a governance plan that defines
25 the manner in which the stakeholders shall

1 jointly make policy and operational deci-
2 sions on an ongoing basis;

3 “(vii) a financial or business plan that
4 describes—

5 “(I) the sustainability of the
6 plan;

7 “(II) the financial costs and ben-
8 efits of the plan; and

9 “(III) the entities to which such
10 costs and benefits will accrue;

11 “(viii) a description of whether the
12 State in which the entity resides has re-
13 ceived a grant under section 319D, alone
14 or as a part of a consortium, and if the
15 State has received such a grant, how the
16 entity will coordinate the activities funded
17 under such section 319D with the system
18 under this section; and

19 “(ix) in the case of an applicant entity
20 that is unable to demonstrate the partici-
21 pation of all stakeholders pursuant to
22 paragraph (2)(C), the justification from
23 the entity for any such nonparticipation.

24 “(4) USE OF FUNDS.—Amounts received under
25 a grant under paragraph (1) shall be used to estab-

1 lish and implement a regional or local health infor-
2 mation plan in accordance with this subsection.

3 “(5) MATCHING REQUIREMENT.—

4 “(A) IN GENERAL.—The Secretary may
5 not make a grant under this subsection to an
6 entity unless the entity agrees that, with re-
7 spect to the costs to be incurred by the entity
8 in carrying out the infrastructure program for
9 which the grant was awarded, the entity will
10 make available (directly or through donations
11 from public or private entities) non-Federal
12 contributions toward such costs in an amount
13 equal to not less than 50 percent of such costs
14 (\$1 for each \$2 of Federal funds provided
15 under the grant).

16 “(B) DETERMINATION OF AMOUNT CON-
17 TRIBUTED.—Non-Federal contributions re-
18 quired under subparagraph (A) may be in cash
19 or in kind, fairly evaluated, including equip-
20 ment, technology, or services. Amounts provided
21 by the Federal Government, or services assisted
22 or subsidized to any significant extent by the
23 Federal Government, may not be included in
24 determining the amount of such non-Federal
25 contributions.

1 “(d) REPORTS.—Not later than 1 year after the date
2 on which the first grant is awarded under this section,
3 and annually thereafter during the grant period, an entity
4 that receives a grant under this section shall submit to
5 the Secretary a report on the activities carried out under
6 the grant involved. Each such report shall include—

7 “(1) a description of the financial costs and
8 benefits of the project involved and of the entities to
9 which such costs and benefits accrue;

10 “(2) an analysis of the impact of the project on
11 health care quality and safety;

12 “(3) a description of any reduction in duplica-
13 tive or unnecessary care as a result of the project in-
14 volved; and

15 “(4) other information as required by the Sec-
16 retary.

17 “(e) AUTHORIZATION OF APPROPRIATIONS.—

18 “(1) IN GENERAL.—For the purpose of car-
19 rying out this section, there is authorized to be ap-
20 propriated \$139,000,000 for fiscal year 2008 and
21 \$139,000,000 for fiscal year 2009.

22 “(2) AVAILABILITY.—Amounts appropriated
23 under paragraph (1) shall remain available through
24 fiscal year 2012.

1 **“SEC. 3009. DEMONSTRATION PROGRAM TO INTEGRATE IN-**
2 **FORMATION TECHNOLOGY INTO CLINICAL**
3 **EDUCATION.**

4 “(a) IN GENERAL.—The Secretary may award grants
5 to eligible entities or consortia under this section to carry
6 out demonstration projects to develop academic curricula
7 integrating qualified health information technology sys-
8 tems in the clinical education of health professionals or
9 analyze clinical data sets to discover quality measures.
10 Such awards shall be made on a competitive basis and
11 pursuant to peer review.

12 “(b) ELIGIBILITY.—To be eligible to receive a grant
13 under subsection (a), an entity or consortium shall—

14 “(1) submit to the Secretary an application at
15 such time, in such manner, and containing such in-
16 formation as the Secretary may require;

17 “(2) be or include—

18 “(A) a health professions school;

19 “(B) a school of nursing; or

20 “(C) an institution with a graduate med-
21 ical education program;

22 “(3) provide for the collection of data regarding
23 the effectiveness of the demonstration project to be
24 funded under the grant in improving the safety of
25 patients and the efficiency of health care delivery;
26 and

1 “(4) provide matching funds in accordance with
2 subsection (d).

3 “(c) USE OF FUNDS.—

4 “(1) IN GENERAL.—With respect to a grant
5 under subsection (a), an eligible entity or consortium
6 shall use amounts received under the grant in col-
7 laboration with 2 or more disciplines.

8 “(2) LIMITATION.—An eligible entity or consor-
9 tium shall not award a grant under subsection (a)
10 to purchase hardware, software, or services.

11 “(d) MATCHING FUNDS.—

12 “(1) IN GENERAL.—The Secretary may award
13 a grant to an entity under or consortium this section
14 only if the entity of consortium agrees to make avail-
15 able non-Federal contributions toward the costs of
16 the program to be funded under the grant in an
17 amount that is not less than \$1 for each \$2 of Fed-
18 eral funds provided under the grant.

19 “(2) DETERMINATION OF AMOUNT CONTRIB-
20 UTED.—Non-Federal contributions under paragraph
21 (1) may be in cash or in kind, fairly evaluated, in-
22 cluding equipment or services. Amounts provided by
23 the Federal Government, or services assisted or sub-
24 sidized to any significant extent by the Federal Gov-

1 ernment, may not be included in determining the
2 amount of such contributions.

3 “(e) EVALUATION.—The Secretary shall take such
4 action as may be necessary to evaluate the projects funded
5 under this section and publish, make available, and dis-
6 seminate the results of such evaluations on as wide a basis
7 as is practicable.

8 “(f) REPORTS.—Not later than 1 year after the date
9 of enactment of this title, and annually thereafter, the Sec-
10 retary shall submit to the Committee on Health, Edu-
11 cation, Labor, and Pensions and the Committee on Fi-
12 nance of the Senate, and the Committee on Energy and
13 Commerce and the Committee on Ways and Means of the
14 House of Representatives a report that—

15 “(1) describes the specific projects established
16 under this section; and

17 “(2) contains recommendations for Congress
18 based on the evaluation conducted under subsection
19 (e).

20 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
21 is authorized to be appropriated to carry out this section,
22 \$2,000,000 for each of fiscal years 2008 and 2009.

23 “(h) SUNSET.—This provisions of this section shall
24 not apply after September 30, 2012.”.

1 **TITLE III—IMPROVING THE**
2 **QUALITY OF HEALTH CARE**

3 **SEC. 301. CONSENSUS PROCESS FOR THE ADOPTION OF**
4 **QUALITY MEASURES FOR USE IN THE NA-**
5 **TIONWIDE INTEROPERABLE HEALTH INFOR-**
6 **MATION TECHNOLOGY INFRASTRUCTURE.**

7 Title XXX of the Public Health Service Act, as
8 amended by section 201, is further amended by adding
9 at the end the following:

10 **“SEC. 3010. FOSTERING DEVELOPMENT AND USE OF**
11 **HEALTH CARE QUALITY MEASURES.**

12 “(a) IN GENERAL.—The Secretary shall provide for
13 the development and use of health care quality measures
14 (referred to in this title as ‘quality measures’) for the pur-
15 pose of measuring the quality and efficiency of health care
16 that patients receive.

17 “(b) DESIGNATION OF, AND ARRANGEMENT WITH,
18 ORGANIZATION.—

19 “(1) IN GENERAL.—Not later than 90 days
20 after the date of enactment of this title, the Sec-
21 retary shall designate, and have in effect an ar-
22 rangement with, a single organization that meets the
23 requirements of subsection (c) under which such or-
24 ganization shall promote the development of quality
25 measures and provide the Secretary with advice and

1 recommendations on the key elements and priorities
 2 of a national system for healthcare performance
 3 measurement.

4 “(2) RESPONSIBILITIES.—The responsibilities
 5 to be performed by the organization designated
 6 under paragraph (1) (in this title referred to as the
 7 ‘designated organization’) shall include—

8 “(A) establishing and managing an inte-
 9 grated national strategy and process for setting
 10 priorities and goals in establishing quality
 11 measures;

12 “(B) coordinating and harmonizing the de-
 13 velopment and testing of such measures;

14 “(C) establishing standards for the devel-
 15 opment and testing of such measures;

16 “(D) endorsing national consensus quality
 17 measures;

18 “(E) recommending, in collaboration with
 19 multi-stakeholder groups, quality measures to
 20 the Secretary for adoption and use;

21 “(F) promoting the development and use
 22 of electronic health records that contain the
 23 functionality for automated collection, aggrega-
 24 tion, and transmission of performance measure-
 25 ment information; and

1 “(G) providing recommendations and ad-
2 vice to the Partnership regarding the integra-
3 tion of quality measures into the certification
4 process outlined under section 3003 and the
5 Community regarding national policies outlined
6 under section 3004.

7 “(c) REQUIREMENTS DESCRIBED.—The require-
8 ments described in this subsection are the following:

9 “(1) PRIVATE ENTITY.—The organization shall
10 be a private nonprofit entity that is governed by a
11 board of directors and an individual who is des-
12 ignated as president and chief executive officer.

13 “(2) BOARD MEMBERSHIP.—The members of
14 the board of directors of the entity shall include rep-
15 resentatives of—

16 “(A) health care providers or groups rep-
17 resenting providers;

18 “(B) health plans or groups representing
19 health plans;

20 “(C) patients or consumers enrolled in
21 such plans or groups representing individuals
22 enrolled in such plans;

23 “(D) health care purchasers and employers
24 or groups representing purchasers or employers;
25 and

1 “(E) organizations that develop health in-
 2 formation technology standards and new health
 3 information technology.

4 “(3) OTHER MEMBERSHIP REQUIREMENTS.—
 5 The membership of the board of directors of the en-
 6 tity shall be representative of individuals with expe-
 7 rience with—

8 “(A) urban health care issues;

9 “(B) safety net health care issues;

10 “(C) rural or frontier health care issues;

11 “(D) quality and safety issues;

12 “(E) State or local health programs;

13 “(F) individuals or entities skilled in the
 14 conduct and interpretation of biomedical, health
 15 services, and health economics research and
 16 with expertise in outcomes and effectiveness re-
 17 search and technology assessment; and

18 “(G) individuals or entities involved in the
 19 development and establishment of standards
 20 and certification for health information tech-
 21 nology systems and clinical data.

22 “(4) OPEN AND TRANSPARENT.—With respect
 23 to matters related to the arrangement with the Sec-
 24 retary under subsection (a)(1), the organization
 25 shall conduct its business in an open and trans-

1 parent manner, and provide the opportunity for pub-
2 lic comment and ensure a balance among disparate
3 stakeholders, so that no member organization unduly
4 influences the work of the organization.

5 “(5) VOLUNTARY CONSENSUS STANDARDS SET-
6 TING ORGANIZATIONS.—The organization shall oper-
7 ate as a voluntary consensus standards setting orga-
8 nization as defined for purposes of section 12(d) of
9 the National Technology Transfer and Advancement
10 Act of 1995 (Public Law 104–113) and Office of
11 Management and Budget Revised Circular A–119
12 (published in the Federal Register on February 10,
13 1998).

14 “(6) PARTICIPATION.—If the organization re-
15 quires a fee for membership, the organization shall
16 ensure that such fee is not a substantial barrier to
17 participation in the entity’s activities related to the
18 arrangement with the Secretary.

19 “(d) REQUIREMENTS FOR MEASURES.—The quality
20 measures developed under this title shall comply with the
21 following:

22 “(1) MEASURES.—The designated organization,
23 in promoting the development of quality measures
24 under this title, shall ensure that such measures—

1 “(A) are evidence-based, reliable, and
2 valid;

3 “(B) include—

4 “(i) measures of clinical processes and
5 outcomes, patient experience, efficiency,
6 and equity; and

7 “(ii) measures to assess effectiveness,
8 timeliness, patient self-management, pa-
9 tient centeredness, and safety; and

10 “(C) include measures of underuse and
11 overuse.

12 “(2) PRIORITIES.—In carrying out its respon-
13 sibilities under this section, the designated organiza-
14 tion shall ensure that priority is given to—

15 “(A) measures with the greatest potential
16 impact for improving the performance and effi-
17 ciency of care;

18 “(B) measures that may be rapidly imple-
19 mented by group health plans, health insurance
20 issuers, physicians, hospitals, nursing homes,
21 long-term care providers, and other providers;

22 “(C) measures which may inform health
23 care decisions made by consumers and patients;

1 “(D) measures that apply to multiple serv-
2 ices furnished by different providers during an
3 episode of care;

4 “(E) measures that can be integrated into
5 certification process described in section 3003;
6 and

7 “(F) measures that may be integrated into
8 the decision support function of qualified health
9 information technology as defined by this title.

10 “(3) RISK ADJUSTMENT.—The designated orga-
11 nization, in consultation with performance measure
12 developers and other stakeholders, shall establish
13 procedures to ensure that quality measures take into
14 account differences in patient health status, patient
15 characteristics, and geographic location, as appro-
16 priate.

17 “(4) MAINTENANCE.—The designated organiza-
18 tion, in consultation with owners and developers of
19 quality measures, shall require the owners or devel-
20 opers of quality measures to update and enhance
21 such measures, including the development of more
22 accurate and precise specifications, and retire exist-
23 ing outdated measures. Such updating shall occur
24 not more often than once during each 12-month pe-

1 riod, except in the case of emergency circumstances
 2 requiring a more immediate update to a measure.

3 “(e) GRANTS FOR PERFORMANCE MEASURE DEVEL-
 4 OPMENT.—The Secretary, acting through the Agency for
 5 Healthcare Research and Quality, may award grants, in
 6 amounts not to exceed \$50,000 each, to organizations to
 7 support the development and testing of quality measures
 8 that meet the standards established by the designated or-
 9 ganization.

10 **“SEC. 3011. ADOPTION AND USE OF QUALITY MEASURES;**
 11 **REPORTING.**

12 “(a) IN GENERAL.—For purposes of carrying out ac-
 13 tivities authorized or required by this title to ensure the
 14 use of quality measures and to foster uniformity between
 15 health care quality measures utilized by private entities,
 16 the Secretary shall—

17 “(1) select quality measures for adoption and
 18 use, from quality measures recommended by multi-
 19 stakeholder groups and endorsed by the designated
 20 organization; and

21 “(2) ensure that standards adopted under sec-
 22 tion 3005 integrate the quality measures endorsed,
 23 adopted, and utilized under this section.

1 “(b) RELATIONSHIP WITH PROGRAMS UNDER THE
2 SOCIAL SECURITY ACT.—The Secretary shall ensure that
3 the quality measures adopted under this section—

4 “(1) complement quality measures developed by
5 the Secretary under programs administered by the
6 Secretary under the Social Security Act, including
7 programs under titles XVIII, XIX, and XXI of such
8 Act; and

9 “(2) do not conflict with the needs and prior-
10 ities of the programs under titles XVIII, XIX, and
11 XXI of such Act, as set forth by the Administrator
12 of the Centers for Medicare & Medicaid Services.

13 “(c) REPORTING.—The Secretary shall implement
14 procedures, consistent with generally accepted standards,
15 to enable the Department of Health and Human Services
16 to accept the electronic submission of data for purposes
17 of performance measurement, including at the provider
18 level, using the quality measures developed, endorsed, and
19 adopted pursuant to this title.

20 “(d) DISSEMINATION OF INFORMATION.—In order to
21 make comparative performance information available to
22 health care consumers, health professionals, public health
23 officials, oversight organizations, researchers, and other
24 appropriate individuals and entities, after consultation
25 with multi-stakeholder groups, the Secretary shall promul-

1 gate regulations to provide for the dissemination, aggrega-
 2 tion, and analysis of quality measures collected pursuant
 3 to this title.”.

4 **TITLE IV—PRIVACY AND** 5 **SECURITY**

6 **SEC. 401. PRIVACY AND SECURITY.**

7 Title XXX of the Public Health Service Act, as
 8 amended by section 301, is further amended by adding
 9 at the end the following:

10 **“SEC. 3013. ENSURING PRIVACY AND SECURITY.**

11 “(a) PRIVACY PROTECTIONS APPLY TO HEALTH IN-
 12 FORMATION ELECTRONIC DATABASES.—An operator of a
 13 health information electronic database shall be deemed to
 14 be a ‘covered entity’ for purposes of sections 1171 through
 15 1179 of the Social Security Act and the regulations pro-
 16 mulgated under section 264(c) of the Health Insurance
 17 Portability and Accountability Act of 1996 (42 U.S.C.
 18 1320d-2 note) (referred to in this section as the ‘HIPAA
 19 privacy regulations’.

20 “(b) HEALTH INFORMATION ELECTRONIC DATABASE
 21 DEFINED.—In this section, the term ‘operator of a health
 22 information electronic database’ means an entity that—

23 “(1) is constituted, organized, or chartered for
 24 the primary purpose of maintaining or transmitting

1 protected health information in a designated record
2 set or sets;

3 “(2) receives valuable consideration for main-
4 taining or transmitting protected health information
5 in a designated record set or sets; and

6 “(3) is not a health plan, healthcare clearing-
7 house, or healthcare provider who transmits any
8 health information in electronic form in connection
9 with a transaction referred to in section 1173(a)(1)
10 of the Social Security Act.

11 “(c) RIGHT OF INDIVIDUALS TO INSPECT THEIR
12 MEDICAL RECORDS MAINTAINED IN ELECTRONIC FOR-
13 MAT.—To the extent provided for under the HIPAA pri-
14 vacy regulations with respect to protected health informa-
15 tion, an individual shall have a right of access to inspect
16 and obtain a copy of protected health information about
17 the individual stored in electronic format.

18 “(d) RIGHTS OF INDIVIDUALS WHO ARE VICTIMS OF
19 MEDICAL FRAUD.—To the extent provided for under the
20 HIPAA privacy regulations and under the conditions spec-
21 ified in such regulations, with respect to protected health
22 information, an individual who is a victim of medical fraud
23 or who believes that there is an error in their protected
24 health information stored in an electronic format shall
25 have the right—

1 “(1) to have access to inspect and obtain a copy
 2 of protected health information about the individual,
 3 including the information fraudulently entered, in a
 4 designated record set; and

5 “(2) to have a covered entity amend protected
 6 health information or a record about the individual,
 7 including information fraudulently entered, in a des-
 8 ignated electronic record set for as long as the pro-
 9 tected health information is maintained in the des-
 10 ignated electronic record set to ensure that fraudu-
 11 lent and inaccurate health information is not shared
 12 or re-reported.

13 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
 14 tion shall be construed to supercede or otherwise limit the
 15 provisions of any contract that provides for the application
 16 of privacy protections that are greater than the privacy
 17 protections provided for under the regulations promul-
 18 gated under section 264 of the Health Insurance Port-
 19 ability and Accountability Act of 1996.”.

20 **TITLE V—MISCELLANEOUS** 21 **PROVISIONS**

22 **SEC. 501. GAO STUDY.**

23 Not later than 12 months after the date of enactment
 24 of this Act, the Comptroller General of the United States
 25 shall submit to Congress a report on the circumstances

1 in which it is necessary and workable to require health
 2 plans (as defined in section 1171 of the Social Security
 3 Act (42 U.S.C. 1320d)), health care clearinghouses (as de-
 4 fined in such section 1171), and health care providers (as
 5 defined in such section 1171) who transmit health infor-
 6 mation in electronic form, to notify individuals if their in-
 7 dividually identifiable health information (as defined in
 8 such section 1171) is wrongfully disclosed.

9 **SEC. 502. HEALTH INFORMATION TECHNOLOGY RESOURCE**
 10 **CENTER.**

11 Section 914 of the Public Health Service Act (42
 12 U.S.C. 299b-3) is amended by adding at the end the fol-
 13 lowing:

14 “(d) HEALTH INFORMATION TECHNOLOGY RE-
 15 SOURCE CENTER.—

16 “(1) IN GENERAL.—The Secretary, acting
 17 through the Director, shall develop a Health Infor-
 18 mation Technology Resource Center (referred to in
 19 this subsection as the ‘Center’) to provide technical
 20 assistance and develop best practices to support and
 21 accelerate efforts to adopt, implement, and effec-
 22 tively use interoperable health information tech-
 23 nology in compliance with sections 3003 and 3010.

24 “(2) PURPOSES.—The purposes of the Center
 25 are to—

1 “(A) provide a forum for the exchange of
2 knowledge and experience;

3 “(B) accelerate the transfer of lessons
4 learned from existing public and private sector
5 initiatives, including those currently receiving
6 Federal financial support;

7 “(C) assemble, analyze, and widely dis-
8 seminate evidence and experience related to the
9 adoption, implementation, and effective use of
10 interoperable health information technology;

11 “(D) provide for the establishment of re-
12 gional and local health information networks to
13 facilitate the development of interoperability
14 across health care settings and improve the
15 quality of health care;

16 “(E) provide for the development of solu-
17 tions to barriers to the exchange of electronic
18 health information; and

19 “(F) conduct other activities identified by
20 the States, local, or regional health information
21 networks, or health care stakeholders as a focus
22 for developing and sharing best practices.

23 “(3) SUPPORT FOR ACTIVITIES.—To provide
24 support for the activities of the Center, the Director
25 shall modify the requirements, if necessary, that

1 apply to the National Resource Center for Health
 2 Information Technology to provide the necessary in-
 3 frastructure to support the duties and activities of
 4 the Center and facilitate information exchange
 5 across the public and private sectors.

6 “(4) RULE OF CONSTRUCTION.—Nothing in
 7 this subsection shall be construed to require the du-
 8 plication of Federal efforts with respect to the estab-
 9 lishment of the Center, regardless of whether such
 10 efforts were carried out prior to or after the enact-
 11 ment of this subsection.

12 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
 13 is authorized to be appropriated, such sums as may be
 14 necessary for each of fiscal years 2008 and 2009 to carry
 15 out this section.”.

16 **SEC. 503. FACILITATING THE PROVISION OF TELEHEALTH**
 17 **SERVICES ACROSS STATE LINES.**

18 Section 330L of the Public Health Service Act (42
 19 U.S.C. 254c–18) is amended to read as follows:

20 **“SEC. 330L. TELEMEDICINE; INCENTIVE GRANTS REGARD-**
 21 **ING COORDINATION AMONG STATES.**

22 “(a) FACILITATING THE PROVISION OF TELE-
 23 HEALTH SERVICES ACROSS STATE LINES.—The Sec-
 24 retary may make grants to States that have adopted re-
 25 gional State reciprocity agreements for practitioner licen-

1 sure, in order to expedite the provision of telehealth serv-
2 ices across State lines.

3 “(b) AUTHORIZATION OF APPROPRIATIONS.—For the
4 purpose of carrying out subsection (a), there are author-
5 ized to be appropriated such sums as may be necessary
6 for each of the fiscal years 2008 and 2009.”.

○